

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

THE SIDING AND INSULATION CO.,	)	CASE NO: 1:11-CV-01060
	)	
Plaintiff,	)	JUDGE WELLS
	)	
v.	)	MAGISTRATE JUDGE
	)	VECCHIARELLI
ALCO VENDING, INC.,	)	
	)	
Defendant.	)	<b>REPORT AND RECOMMENDATION</b>
	)	<b>(Doc. No. 39)</b>

This case is before the undersigned United States Magistrate Judge upon referral for the preparation of a Report and Recommendation on the motion for class certification filed by Plaintiff The Siding and Insulation Co. ("Plaintiff"). (Doc. No. 39.) Plaintiff has requested this Court issue an order certifying the action as a class action. Defendant Alco Vending, Inc., ("Defendant") opposes the motion, arguing, in part, that undisputed facts confirm that Plaintiff's claims against Defendant fail as a matter of law; and, therefore, without a valid claim, Plaintiff is an inadequate representative of the class. (Doc. No. 45.)

Because this Court has recommended that Defendant's motion for summary judgment be granted as to Plaintiff's federal TCPA claim and that the Court decline to exercise supplemental jurisdiction over Plaintiff's remaining state law conversion claim (Doc. No. 56), the Magistrate Judge recommends that Plaintiff's motion for class certification be DENIED as moot.

s/ Nancy A. Vecchiarelli  
U.S. MAGISTRATE JUDGE

Date: February 6, 2014

### **OBJECTIONS**

Any objections to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days after the party objecting has been served with a copy of this Report and Recommendation. [28 U.S.C. § 636\(b\)\(1\)](#). Failure to file objections within the specified time may waive the right to appeal the District Court's order. See [United States v. Walters, 638 F.2d 947 \(6th Cir. 1981\)](#); [Thomas v. Arn, 474 U.S. 140 \(1985\), reh'g denied, 474 U.S. 1111 \(1986\)](#).